

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

PHILIP CRISWELL,

Plaintiff,

VS.

HIGMAN MARINE INC, *et al*,

Defendants.

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§  
§  
§  
§  
§

CIVIL ACTION NO. G-12-36

**ORDER CONDITIONALLY CERTIFYING PROPOSED COLLECTIVE  
ACTION CLASS AND ORDERING NOTICE TO POTENTIAL CLASS  
MEMBERS**

On this day came to be considered the Plaintiff's Motion for Notice to Potential Class Members (Docket Entry #15) and the parties' Joint Submission of Proposed Notices (Docket Entry #24). This Court has considered the above submissions and the applicable authorities, and has determined that the following orders **SHALL** issue.

It is **ORDERED** that the proposed class of **ALL VESSEL TANKERMEN EMPLOYED BY HIGMAN BARGE LINES, INC. WITHIN THE PAST THREE YEARS** is **CONDITIONALLY CERTIFIED**.

It is **FURTHER ORDERED** that the Plaintiff's proposed Notice and proposed Consent Form, attached hereto as Exhibit A, **ARE APPROVED** and **SHALL** be **ISSUED** according to the following schedule.

It is **FURTHER ORDERED** that, by June 22, 2012, Defendant **SHALL**, in usable electronic format, disclose to Plaintiff's counsel a list of all tankermen employed

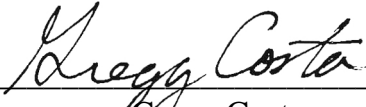
by Defendant within the past three years and the last known physical addresses and e-mail addresses of those tankermen.

It is **FURTHER ORDERED** that, by July 2, 2012, Plaintiff's counsel **SHALL** send by mail and e-mail a copy of the approved Notice and a copy of the approved Consent Form to the putative class members, and **SHALL** notify the Court of the initial mailings.

It is **FURTHER ORDERED** that Plaintiff's counsel **IS AUTHORIZED** to send by mail and e-mail a second identical copy of the approved Notice and a second identical copy of the approved Consent Form to the putative class members after thirty days have passed from the date of the initial mailings.

It is **FINALLY ORDERED** that the putative class members **SHALL** have sixty days from the date that the initial Notice is mailed to return their signed Consent Forms for filing with this Court.

SIGNED this 12th day of June, 2012.

  
\_\_\_\_\_  
Gregg Costa  
United States District Judge

## **EXHIBIT A**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION**

PHILIP CRISWELL, individually and on	]	CASE NO. 3:12-cv-00036
Behalf of all others similarly situated,	]	
	]	
<i>Plaintiff,</i>	]	
	]	JURY TRIAL DEMANDED
v.	]	
	]	
	]	COLLECTIVE ACTION
HIGMAN BARGE LINES, INC.,	]	PURSUANT TO 29 U.S.C. §216(b)
	]	
<i>Defendant.</i>	]	
	]	

## NOTICE TO POTENTIAL CLASS MEMBERS

**TO: ALL VESSEL TANKER MEN EMPLOYED BY HIGMAN BARGE LINES, INC. WITHIN THE PAST THREE YEARS**

**RE: FAIR LABOR STANDARDS ACT LAWSUIT TO RECOVER ALLEGEDLY UNPAID WAGES**

## 1. INTRODUCTION

This Notice is to inform you of a collective action lawsuit alleging violations of the Fair Labor Standards Act (FLSA). Because your rights might be affected by this suit you may have the right to participate in it. This Notice explains how you may do so.

## 2. DESCRIPTION OF THE LAWSUIT

Phillip Criswell (hereinafter “Plaintiff”) brought this case against Defendant Higman Barge Lines, Inc. (hereinafter referred to as “Higman”) on behalf of himself and all similarly situated, current and former vessel tankermen employed by Higman Barge Lines, Inc. in the past three years. Plaintiff contends that those vessel tankermen qualified for overtime pay under the FLSA and that Higman failed to pay overtime for all hours that they worked in excess of 40 hours a week. Plaintiff seeks overtime pay for all the time spent working over 40 hours in any work week and additional damages in an amount equal to his unpaid overtime. Plaintiff is also seeking attorneys’ fees and costs.

Higman Barge Lines, Inc. claims that it complied with all applicable laws and denies any wrongdoing.

The Court has not considered or made any decisions as to the merits of Plaintiff's claims or Higman's defenses.

### **3. COMPOSITION OF THE CLASS**

Plaintiff filed this lawsuit on behalf of himself and all other similarly situated, current and former vessel tankermen employed by Higman Barge Lines, Inc. at any time during the past three years who worked more than 40 hours per week.

### **4. HOW TO PARTICIPATE IN THIS LAWSUIT**

Enclosed is a form titled "Consent to Become a Party Plaintiff" ("Consent Form"). If you worked for Higman Barge Lines, Inc. as a vessel tankerman and want to recover unpaid overtime and liquidated damages that may be owed to you, you must file a consent to be made a party plaintiff with the Clerk of the Court. You should consider participating in this lawsuit only if you believe that you regularly spent more than 20% of your time at work performing the actual duties that require a tankerman's license.

If you choose to join this lawsuit, it is extremely important that you read, sign and return the Consent Form. An addressed and postage paid envelope is enclosed for your convenience. Should the envelope be lost or misplaced, the Consent Form should be faxed to 713-751-0030 or mailed to:

Vessel Tankerman Overtime Lawsuit Against Higman Barge Lines, Inc.  
Fibich, Hampton, Leebron, Briggs & Josephson LLP  
1150 Bissonnet  
Houston, Texas 77005

If you complete the enclosed Consent form, you will be designating Plaintiff and his attorneys to act on your behalf and to represent your interests. If you wish to discuss this matter, you may contact Plaintiff's attorneys directly at 713-751-0025 or 1-888-751-7050. By contacting Michael Josephson (Plaintiff's attorney), you will have the opportunity to discuss with him in detail the nature of the case and the terms of his representation.

If you do not file a consent form and join in this case, you will not receive any back wages for overtime or other relief from the case even if the Plaintiff wins. Any such relief could be obtained by you only if you proceed by bringing an independent action within the time provided by law.

If you elect to join this lawsuit, you may be required to provide information, give a deposition, and/or testify in Court.

**5. YOUR TIME TO JOIN IS LIMITED**

The signed Consent Form must be filed by \_\_\_\_\_. If your signed Consent Form is not filed by \_\_\_\_\_, you may lose the right to participate in any potential recovery obtained against Higman in this lawsuit.

**6. NO RETALIATION PERMITTED**

Federal law prohibits Higman Barge Lines, Inc. from terminating your employment, discharging you, or in any other manner discriminating against you because you opt-in to this case or have in any other way exercised your rights under the Fair Labor Standards Act.

**7. PLAINTIFF'S ATTORNEY'S CONTACT INFORMATION**

The lawyers representing the tankermen are:

Michael A. Josephson  
Joseph Melugin  
**FIBICH, HAMPTON, LEEBRON,  
BRIGGS & JOSEPHSON LLP**  
1150 Bissonnet  
Houston, Texas 77005  
713-751-0025 (Telephone)  
713-751-0030 (Facsimile)  
1-888-751-7050 (Toll-Free)  
[mjosephson@fhl-law.com](mailto:mjosephson@fhl-law.com)

Richard J. Burch  
Texas Bar No. 24001807  
S.D. Tex. No. 21615  
**BRUCKNER BURCH PLLC**  
8 Greenway Plaza, Suite 1500  
Houston, Texas 77046  
(713) 877-8788 (Telephone)  
(713) 877-8065 (Fax)  
[rburch@brucknerburch.com](mailto:rburch@brucknerburch.com)

**8. DEFENDANT'S ATTORNEYS' CONTACT INFORMATION**

The lawyers representing Higman Barge Lines, Inc., who you should not contact if you have decided to participate in the lawsuit, are:

Leslie Selig Byrd  
Attorney-In-Charge  
Texas State Bar No.: 18008125  
Southern District Bar No.: 15506  
[leslie.byrd@bgllp.com](mailto:leslie.byrd@bgllp.com)  
John A. Ferguson, Jr.  
Texas State Bar No. 06909100  
Southern District Bar No. 12450  
[john.ferguson@bgllp.com](mailto:john.ferguson@bgllp.com)  
Bracewell & Giuliani LLP  
106 South St. Mary's Street, Suite 800  
San Antonio, Texas 78205  
Telephone: (210) 299-3460  
Facsimile: (210) 299-0105

OF COUNSEL:  
Mark Freeman  
Texas State Bar No. 07426600  
Southern District Bar No. 5975  
[freeman@sbflaw.com](mailto:freeman@sbflaw.com)  
Stevens Baldo Freeman & Lighty, LLP  
550 Fannin, Suite 700  
Beaumont, Texas 77701  
Tel: 409-835-5200  
Facsimile: 409-835-5201

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION**

PHILIP CRISWELL, individually and on	]	CASE NO. 3:12-cv-00036
Behalf of all others similarly situated,	]	
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<i>Plaintiff,</i>	]	
	]	JURY TRIAL DEMANDED
v.	]	
	]	
	]	COLLECTIVE ACTION
HIGMAN BARGE LINES, INC.,	]	PURSUANT TO 29 U.S.C. §216(b)
	]	
<i>Defendant.</i>	]	
	]	

## **CONSENT FORM TO JOIN LAWSUIT**

I, the undersigned, a current or former tankerman employed by Higman Barge Lines, Inc., consent to be a party plaintiff in the above-captioned lawsuit, which is an action to recover unpaid overtime wages and liquidated damages. I believe I spent at least 20% of my working time performing the actual duties that require a tankerman's license. By my signature below, I designate the above representative Plaintiff and his attorneys as my agent to make decisions on my behalf concerning the litigation, the manner and method of conducting this litigation, attorney's fees and costs and all other matters pertaining to this lawsuit.

**Please print or type the following information:**

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Full Name

Signature/Date

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Address

City/State/Zip

Telephone Number

Approx. Dates of Employment

Email Address

Alternate Phone Number

**RETURN THIS FORM BY MAIL OR FAX 713-751-0030 TO:**

**Tankerman Overtime Lawsuit Against Higman  
c/o Michael A. Josephson  
Fibich, Hampton, Leebron, Briggs & Josephson LLP  
1150 Bissonnet, Houston, Texas 77005**